Departmental Enquiries.
Procedure for holding of -

GOVERNMENT OF MAHARASHTRA
General Administration Department.
Circular No. CDR-1174/DI.
Sachivalaya, Bombay-400 032, Dated the 5th June 1974.

CIRCULAR OF GOVERNMENT.

It has come to the notice of Government that a number of departmental enquiries or the orders issued in pursuance of the enquiries are required to be set aside because of defects vitiating the enquiries or orders issued in pursuance thereof, resulting in much delay and avoidable expenditure to Government. The following are some of the defects/ irregularities noticed in the departmental enquiries or orders issued in pursuance thereof.

(1) Departmental Enquiries are sanctioned by authorities who are not competent to take disciplinary action against Government servants concerned.

(2) The charges mentioned in the charge-sheet are not clear and precise but are vague.

(3) The statement of allegations does not contain a full and precise recitation of the specific and relevant acts of commission and omission on the part of the Government, servant in support of each charge and any other circumstances which it is proposed to take into consideration. Sometimes the statement of allegations is a mere repetition of the charges mentioned in the charge-sheet.

(4) A list of documents by which and a list of witnesses by whom, the charges are proposed to be substantiated, is not supplied to the Government servant.

(5) Copies of documents or records which are relevant for the purpose of the defence are not supplied to the Government servant.

(6) After the written statement of defence is filed, the Government servant charged is not given an opportunity to make an oral statement, either to supplement or explain the written statement, or in lieu of it.

(7) Sometimes witnesses are examined when the delinquent is not present or recorded statements of witnesses are admitted as evidence without examining the witnesses.

(8) After completing the oral enquiry, the person charged is not given a further opportunity of making a written or oral statement or in case he so desires, both.

(9) If the enquiry is transferred to another Enquiry Officer, de novo enquiry from the stage of serving a fresh charge-sheet is not held by the new Enquiry Officer but the enquiry is proceeded further from the stage it was left by the old Enquiry Officer.

(10) Penalty is imposed on the basis of suspicion eventhough the charge is not conclusively proved.

(11) The penalty imposed is higher than that mentioned in the show cause notice.

2. With a view to avoiding such procedural irregularities, Government is pleased to issue the following instructions for the guidance of officers conducting departmental enquiries and others who handle cases relating to disciplinary matters:-

(1) The authorities competent to take disciplinary action against

the Government servant concerned should only sanction a departmental enquiry against him.

(2) The charges should be expressed in clear and precise terms. They should not be vague. A separate charge should be framed in respect of each separate allegation. Multiplication or splitting up of charges on the basis of the same allegation should be avoided.

(3) The statement of allegations should give a full and precise recitation of the specific and relevant acts of commission or omission on the part of the Government servant in support of each charge and any other circumstances which it is proposed to take into consideration. The statement of allegation should not be a mere repetition of the charges. A statement that a Government servant allowed certain entries to be made with ulterior motive would be vague. A vague accusation that the Government servant was in the habit of doing certain acts in the past is not sufficient.

(4) A list of documents by which and list of witnesses by whom, the charges are proposed to be substantiated should be inavriably supplied to the Government servant along with the charge-sheet.

(5) Copies of documents or record which are relevant for the purpose of defence should be supplied to the Government servant.

(6) After the written statement of defence, if any, is filed, and even if no such written statement is filed, the person charged should be given an opportunity of making an oral statement, either to supplement or explain the written statement, or in lieu of it, as the case may be.

(7) Witnesses should be examined in the presence of the delinquent. Recorded statements of witnesses should be admitted as evidence only after examining the witnesses.

(8) After completing the oral enquiry, if any, the person charged should be given a further opportunity of making a written or oral statement or in the case he so desires, both.

(9) If a departmental enquiry is transferred to another Enquiry Officer, the new Enquiry Officer should hold the enquiry de novo from the stage of serving a fresh charge-sheet. The new Enquiry Officer should not proceed with the enquiry from the stage left by the old Enquiry Officer.

(10) An officer associated with the preliminary enquiry or one who is likely to be cited as a witness for or against the Government servant should not be appointed as an Enquiry Officer.

(11) Penalty should not be imposed on the basis of suspicion eventhough the charge is not conclusively proved.

(12) A notice, commonly called the show cause notice, stating the penalty proposed to be imposed on him and calling upon him to submit within a specified period, such representation as the Government servant may wish to make on the proposed penalty, should be served on the Government servant.

(13) The show cause notice should invariably be accompanied by a copy of the report of the Enquiry Officer which should be reproduced as it is without any deletion or mutilation.

(14) The penalty imposed on the Government servant should not be higher than the penalty mentioned in the show cause notice.

H-184(3,000-6-74)-1a.

3. All officers who are competent to initiate disciplinary action or have occasions to conduct departmental enquiries should follow these instructions strictly and scrupulously.

By order and in the name of the Governor of Maharashtra,

M.K. GUPTE,
Under Secretary to the Government of Maharashtra.

To

The Secretary to the Governor,
All Secretaries to Government,
The Secretary to the Chief Minister,
The Special Officer for Departmental Enquiries, Bombay and Poona Divisions, Poona,
The Special Officer for Departmental Enquiries, Nagpur and Aurangabad Divisions, Aurangabad,
All other Heads of Departments and Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat,
Registry, General Administration Department (2 copies).

No. of 1974.

Copy forwarded for information and guidance to -

H-184(3,000-6-74)-2.